

# Exhibit B



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February 18, 2022

Via Email

AUSA Kiersten A. Fletcher  
AUSA Robert B. Sobelman  
AUSA Sheb Swett  
United States Attorney's Office  
Southern District of New York  
1 St. Andrew's Plaza  
New York, NY 10007

**Re: *United States v. Jennifer Shah*, S4 19 Cr. 833 (SHS)**

Dear Counsel:

We represent Defendant Jennifer Shah in the above-captioned case. We are in receipt of your letter, dated February 13, 2022, in which the Government seeks further information regarding Ms. Shah's expert witness, Professor Przemyslaw Jeziorski. While we disagree with the Government's position that Ms. Shah's expert witness disclosure is inadequate and requires supplementation, in the spirit of cooperation, we provide the following additional information regarding Professor Jeziorski's potential testimony.

Ms. Shah may call at trial Przemyslaw Jeziorski, a professor at the Haas School of Business at the University of California at Berkeley.<sup>1</sup> If called at trial, Professor Jeziorski may testify regarding marketing analytics, specifically regarding the standard techniques that are used in data-driven marketing, such as lead qualification, targeting, and lead brokering. These techniques make up the core of data-driven marketing and are highly encouraged and taught in the field of marketing. The bases for Professor Jeziorski's potential testimony and opinion are his research in the field of marketing analytics, his professional experience teaching a course entitled "Marketing Analytics" at the Haas School of Business, and his personal professional experience running a company that implements these core techniques.

Further, Professor Jeziorski may testify regarding the standard practice of lead qualification for the purpose of decreasing the overall cost of marketing. This practice is intended to permit targeted marketing for only those leads who are potentially interested consumers (and exclude those who are not). Typical lead-qualification strategies result in less overall contact with potential consumers than a non-lead qualifying strategy, which results in a greater subset of contacts. Professor Jeziorski teaches real-world case studies on lead

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<sup>1</sup> Professor Jeziorski's *curriculum vitae* was previously provided and contains additional bases for his opinions.

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qualification as part his “Marketing Analytics” class and has conducted research regarding lead qualification.

Additionally, Professor Jeziorski may testify regarding lead-generation methods. Professor Jeziorski may discuss the three primary types of lead generation methods: (1) advertising (which includes paying for an advertisement which causes potential consumers to contact the company); (2) lead brokering (purchasing a list of contacts for the business to contacts these potential consumers directly); and (3) word-of-mouth referrals. The bases for Professor Jeziorski’s opinions are his research, professional experience, and personal interactions with company executives.

Furthermore, Professor Jeziorski may testify that lead brokering is a standard technique used in marketing. Professor Jeziorski teaches a case study on lead brokering as part of his course, and has conducted research and spoken with many executives regarding the use of lead brokering.

Professor Jeziorski may also testify regarding data scraping, an automated way to collect data. This includes, but is not limited to, the use of data scraping from internet websites. Professor Jeziorski may also testify that data scraping is extensively used in many industries, including academia, and is not prohibited in any way. This technique is also commonly used for comparative marketing as an indicator of demand. The bases for Professor Jeziorski’s opinion are teaching the subject matter in his course, speaking with company executives regarding their use of data scraping, as well as engaging in web scraping for his own company. Professor Jeziorski has also written “scrapers”—automated computer code that engages in scraping through publicly-available sources.

Also, Professor Jeziorski may testify regarding the recent growth of the practice of businesses using outside salesfloors and fulfillment companies. Professor Jeziorski may opine this occurs because it has become more difficult to obtain good leads, and because highly-qualified leads are expensive to purchase directly. Smaller businesses cannot afford to have a large sales team and the use of outside salesfloors provides small businesses with the flexibility to scale up or down quickly. Professor Jeziorski may also testify regarding the division of commissions between small businesses, salesfloors, lead brokers, and fulfillment companies. He may opine that there is a wide variance in the industry regarding the percentages received by each of these components, and often the percentage received by the small business depends on whether the product sold is a service or physical product. Professor Jeziorski will base his testimony on the research he has conducted, the class that he teaches, conversations with company executives, as well as the engagement of salesfloors and fulfillment companies regarding leads for his own company.

Professor Jeziorski may also testify regarding Customer Relationship Management software (“CRM”) used to track customer relationships. CRMs assist companies in qualifying customers and leads based on data. The use of CRMs are basic and standard in the marketing industry, and in Professor Jeziorski’s view, marketing cannot be done effectively without using a CRM. Professor Jeziorski has experience using and building CRMs, including building

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integrations of CRMs with marketing activity. Professor Jeziorski also teaches a course that includes analyzing CRM data.

Moreover, Professor Jeziorski may also testify regarding up-selling and cross-selling and the core use of these techniques as a fundamental marketing analytic amongst many companies. For example, a free trial a company offers to new customers is a prime example of up-selling; an airline offering a customer to purchase travel insurance is an example of cross-selling. Professor Jeziorski teaches lectures on how to effectively use a CRM to cross-sell and/or up-sell, has conducted research on these techniques, and had professional experience using these techniques in his own company.

Professor Jeziorski may also testify regarding chargebacks, a feature of credit and debit cards mostly, in which the transaction is reversed because the payment processor believes the charge to be fraudulent or inappropriately charged. Professor Jeziorski will testify that every company has chargebacks to some degree as chargebacks are impossible to avoid. Explanations for chargebacks include, but are not limited to, a customer losing a credit card and reporting the card stolen, or a system error in which the payment processor accidentally double-charged the customer; in both examples, the merchant is forced to return the money in the form of a chargeback. Professor Jeziorski will also testify regarding chargeback fraud in which customers claim they did not receive what was purchased (although the customer did). Chargebacks are subject to arbitration between the bank and merchant and can take up to three months to decide and during that time period, the money remains in escrow. Professor Jeziorski may testify that banks frequently side with customers in order to keep them satisfied customers. In addition to his teaching and research, the bases for his opinion include that Professor Jeziorski has written chargeback integration with payment systems for his company and has experience dealing with chargebacks.

Lastly, Professor Jeziorski may testify regarding small-business success rates. Professor Jeziorski, who has a Ph.D. in economics, has conducted research as to what makes small businesses succeed or fail, including conducting large-scale field experiments in which he monitors success and failure rates of small businesses.

Ms. Shah continues to reserve the right to call any expert witness in rebuttal to any witness called by the Government. In the event that Ms. Shah may call any additional expert witnesses, Ms. Shah will promptly provide notice to the Government.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Priya Chaudhry', enclosed within a circular scribble.

Priya Chaudhry